



STATE OF INDIANA

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September 1, 2026

Re: Complaint 26-FC-005
Michael A. Garringer (Complainant) v.
Madison County Recorder's Office (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed January 5, 2026.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on July 30, 2026, requesting a formal response by August 27, 2026. A formal response, submitted by William Cain of Graham, Farrer & Wilson, P.C. on behalf of Respondent, was received in this office on August 27, 2026.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide copies of the requested records.

ANALYSIS

The public policy of APRA states that "[p]roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." Indiana Code (IC) 5-14-3-1. Respondent is a public agency for purposes of APRA; and therefore, subject to the requirements. IC 5-14-3-2(s). As a result, unless an exception applies, any person has the right to inspect and copy Respondent's public records during regular business hours. IC 5-14-3-3(a).

Complainant personally visited the Respondent's office on January 5, 2026. Complainant sought to take a cell phone photo of an Ordinance held by the Respondent. Respondent refused access to the record by Complainant, due to a policy of no outside recording allowed. Respondent's posted policy provides for \$1.00 a copy for standard pages.

Respondent stated in its response that copying provisions for the Respondent's office are found in Title 36 and supersede the provisions of APRA.

IC 36-2-7-10(a) provides:

(a) The following definitions apply to this section:

(1) "Copy" means:

(A) transcribing or duplicating a document by handwriting, photocopy, xerography, or duplicating machine;

(B) duplicating electronically stored data onto a disk, tape, drum, or any other means of electronic data storage; or

(C) reproducing a document by any other means.

Respondent goes on to cite IC 36-2-7-10(b), as authority to charge the fees it has posted, which reads:

(b) The county recorder shall charge and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by the county recorder.

IC 36-2-7-10(c)(5) grants authority for the amount of fees to be charged:

(c) The county recorder shall charge the following:

...

(5) For furnishing copies of records, the fee for each copy is:

(A) one dollar (\$1) per page that is not larger than eleven (11) inches by seventeen (17) inches; and

(B) five dollars (\$5) per page that is larger than eleven (11) inches by seventeen (17) inches.

Respondent asserts that these statutory provisions allow the Respondent to restrict outside copies of documents by APRA requestors and then allows Respondent to charge a \$1.00 fee per page. We do not find that argument compelling.

APRA at IC 5-14-3-3 provides that:

(a) Any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as

provided in section 4 of this chapter. A request for inspection or copying must:

(1) identify with reasonable particularity the record being requested; and

(2) be, at the discretion of the agency, in writing on or in a form provided by the agency.

No request may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by other applicable statute. If a request is for inspection or copying of a law enforcement recording, the request must provide the information required under subsection (i).

(b) A public agency may not deny or interfere with the exercise of the right stated in subsection (a). If the public agency does not deny the request, within a reasonable time after the request is received by the agency the public agency shall either:

(1) provide the requested copies to the person making the request; or

(2) allow the person to make copies:

(A) on the agency's equipment; or

(B) on the person's own equipment.

This code section has been cited in *Opinions of the Public Access Counselor* too numerous to mention.

We did not find a single Opinion of the Public Access Counselor, or statutory or case law wherein the Recorder's Office was allowed an exception to IC 5-14-3-3(b)(2)(B). *Opinions of the Public Access Counselor 05-FC-70 and 08-FC-128* are directly on point and essentially hold:

[T]he Recorder may not prohibit you from making copies of public records using your digital camera without sustaining the burden of proof.

Id., 08-FC-128.

In *Opinion of the Public Access Counselor 04-FC-162*, the Scott County Auditor's Office refused to allow Complainant the opportunity to take a digital photo of a map. We find this *Opinion* instructive:

Reproducing a public record with a digital camera is a form of copying that ensures an exact duplicate of the record and does not damage the original. Although the Auditor's prohibition against making digital photographs appears to be motivated by a desire to make updating those maps financial feasible, that prohibition is a denial of and an interference with Mr. Shoulders' right to produce a copy of those records on his own equipment. Also, such a motive, while understandable, is not included within the exceptions listed in I.C. §5-14-3-4.

There, this office found:

that the Scott County Auditor's prohibition against using digital cameras to reproduce a copy of a public record, when such use will not damage the original record, is a violation of the Access to Public Records Act.

IC 36-2-7-10 allows the Respondent to charge for copies of records for which the Respondent has made, not access to the records for the requestor to make copies. Respondent is correct that this provision for fees overrides the APRA provision for fees. However, the Recorder is not rendering the service to requestor as stated in the statute. Requestor is taking his own copies, by photo, in accordance with APRA. APRA supersedes the Title 36 provision as it relates to access to the records.

We agree that the Respondent is able to charge a \$1.00 fee per page for copies when the Respondent makes them, however the Respondent cannot charge for or deny the requestor the right to make copies on his "own equipment".

CONCLUSION

This office finds that the Respondent violated APRA by denying Complainant the right to photograph the public record allowed by APRA.



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